

EXHIBIT A

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 GAINESVILLE DIVISION

5 | CASE NUMBER: 2:22-CV-017-RWS

7 SANTANA BRYSON, et al.,

8 Plaintiffs,

9 | VS.

10 ROUGH COUNTRY, LLC,

11 Defendant.

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REPORTER: Paul Morse

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Certified Court Reporter

23

and Notary Public

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1 Q. All right. This is a letter from
2 you to Ms. Cannella dated May 8, 2024. It's
3 bates labeled Bryson 09348 through 09377. And
4 I'd like to mark this as Exhibit 1 to your
5 deposition.

6 (Defendant's Exhibit Number 1
7 is marked for identification.)

8 A. Can we call it the FR26 amended
9 report? Because that's -- that's why I didn't
10 know what you were talking about. I'm okay if
11 you call it a letter. But I'd rather call it
12 the amended report.

13 Q. Sure. The Re line says FR26
14 amended report. And so I'll reference it by
15 that name.

16 A. Thank you kindly.

17 Q. Sure. In the first paragraph
18 you'll see that you use -- you state that an
19 unforeseen technical issue resulted in the loss
20 of the original simulation file. Just so we're
21 clear, what do you mean by an unforeseen
22 technical issue?

23 A. Well, I think that the simulation

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1 was run in October-ish of '23. The depo was in
2 January. And I hadn't opened the file or
3 looked at it. And when we went to retrieve it,
4 it basically didn't exist. The run file did
5 not exist. And so we could not -- we did
6 everything we could to try to locate it and
7 find it. And all that we can think of is that
8 something happened during the save process.

9 And so I had -- just had no idea that that
10 thing wasn't there. I hadn't looked for it in
11 months. So that's -- that's the unforeseen
12 technical issue. It happens to, you know, all
13 of us at times when you think you've saved
14 something and it didn't get saved properly or
15 maybe there was a corruption in the -- you
16 know, on the computer disc somewhere. I don't
17 know.

18 Maybe somebody opened it later on and
19 thought it was something else and moved it to a
20 folder and we can't find it. I don't know.

21 Q. What is the process after you run
22 an HVE simulation to save the files associated
23 with that simulation?

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1 A. Well, it -- it really ought to be
2 saved and moved into the -- you know, into the
3 job file and put into engineering analysis,
4 which you've probably seen my EA folders,
5 engineering analysis folders. It wasn't --
6 that -- that final step apparently didn't
7 happen. It was still on the simulation
8 computer. At least that's where we thought it
9 was. And but it didn't -- it just wasn't in
10 any other place. I don't think it ever got
11 moved was the problem. That's the reason I --
12 I needed to go get a copy of it.

13 Q. And when you say later on in
14 this -- on this page that -- at the bottom you
15 said since the simulation had been corrupted,
16 what do you mean by the term corrupted?

17 A. Well, whatever we found did not --
18 we went back to the archives and everything.
19 We never found anything that looked like the
20 accident one. And it's even suspect that the
21 printout that I was using was -- was from the
22 one that I had looked at back in October.

23 So the word corrupted is kind of a general

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1 term between losing it, between, you know,
2 not -- not having the right data. It's just --
3 it was meant to be a -- I think originally we
4 thought maybe it had been corrupted. But in
5 the end I think it's -- corrupted, the term
6 changed or something. But it couldn't be
7 opened.

8 But in the end, we -- we've never found one
9 that we think was it, period.

10 Q. So when you produced the printouts
11 prior to your deposition in January that
12 related to this original simulation, are you
13 saying that you are not sure whether those
14 printouts were the same printouts or data that
15 you were looking at when you ran the original
16 simulation in October? Explain that to me.

17 A. Yeah. That -- that's true. Back
18 in October I looked at the data. I looked at
19 the answers. They were printed -- or at least
20 I asked for them to be printed. I don't -- you
21 know, I'm not the printer guy or the filer guy.
22 And it's almost as if what was picked up was an
23 early iteration or something because some of

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1 the data was just wrong.

2 And so I -- you know, it was months before,
3 but I thought that we had had -- that we had
4 all of that. And during the deposition, I
5 clearly said, no, these are all of the reports
6 that are there. I hadn't gone back and
7 checked. They clearly weren't all of the
8 reports. And so we went and just did
9 everything we could, and we could not resurrect
10 anything that I can be confident was what I had
11 looked at back in October.

12 So we can make some guesses. But I can't
13 make -- I can't know. So my opinions are --
14 you know, were well recorded in my depo and,
15 you know, the opinions haven't changed. But we
16 really just had to re-enter the data. And we
17 made an improvement or two, you know, that --
18 you know, to make sure that we had it right
19 like the 0.04 inches on the tire or something
20 like that, whatever it was. But you know, so
21 at the end of the day, we don't have anything
22 that survived that I can validate as being what
23 I looked at back in October.

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1 well.

2 Q. Sure. Sorry if it wasn't crafted
3 very artfully. Let me try to make it simpler.

4 So you just said that the graphical
5 representation of the crush and the data on
6 that that was produced to us prior to your
7 deposition, that it -- you can't confirm
8 whether it actually is representative of the
9 simulation you ran in October of 2023?

10 A. Not exactly. It is -- it is
11 representative in that I can't tell the
12 difference between it and what we ran. In
13 other words, it looks -- it looks like what I
14 remember. It looks like what our results are
15 today. But I can't tell you if it actually was
16 the printout from it. But the crush that's
17 shown there is -- is representative because
18 it's indiscernible from the crush that we know
19 is reasonable and accurate in the rerun.

20 Q. Right. When you --

21 A. Yeah. So thank you.

22 Q. Well, that's a -- that's a good
23 answer. But even though it may be similar or

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1 representative, you can't verify that it's the
2 actual result of the -- the original
3 simulation?

4 A. Right. It was indiscernible to me
5 from the actual result.

6 Q. Right.

7 A. But I can't tell you if that was
8 actually printed from the actual result. But I
9 can tell you that it was good enough that it --
10 that I did not detect it when I was using it
11 for the deposition.

12 Q. Right. And the same question with
13 regard to all of the backup files that related
14 to that original. I don't want to go through
15 every one individually, so we'll start it with
16 a broad question.

17 You have a certain number of backup files,
18 an environment file, this file, that file. Is
19 the same true that all of those files that
20 were -- that were printed and produced to us,
21 the ones you could find prior to your
22 deposition, you can't verify if those were the
23 actual files that were generated when you ran

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1 were -- you used for the F-250, the default
2 properties for -- for stiffness coefficients
3 that were within the software, the
4 VehicleMetrics database. Is that correct?

5 A. Yes.

6 Q. And is the VehicleMetrics database
7 part of the HVE software?

8 A. No. VehicleMetrics is an approved
9 vendor to do things like make vehicles for the
10 HVE software.

11 Q. How is the different from the
12 Neptune data that you used with the original
13 simulation?

14 A. You mean for crush stiffness?

15 Q. No. I don't mean the actual. How
16 is using VehicleMetrics -- in other words, you
17 just said it was approved by HVE for use as a
18 method for determining the stiffness
19 coefficients. Is -- is Neptune not approved?
20 I'm trying to understand that. I thought
21 VehicleMetrics was contained within the HVE
22 software.

23 A. Okay. HVE has vehicles that come

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1 in it.

2 Q. Right.

3 A. HVE had an F-250, but it was not
4 the Crew Cab. It was an Extended Cab, I
5 believe. So it's essentially the same vehicle,
6 but a little bit -- the weight is going to be a
7 little bit different. The length will be a
8 little bit different. And we wanted a
9 Crew Cab.

10 So Vehiclemetrics is a vendor for HVE that
11 we contracted with to make us the right shape
12 Crew Cab from our scans. We gave them the
13 scan, and they made the right shape Crew Cab.
14 And -- and with that vehicle from them came
15 crush stiffness coefficients.

16 Their crush stiffness coefficients were
17 higher than Neptune's. I think Neptune's were
18 reasonable. Vehiclemetrics, because they
19 provided some -- I didn't realize they had --
20 that's closer to using the defaults of HVE than
21 Neptune. So I -- in the update we used them.
22 And to be clear, they're higher crush stiffness
23 coefficients. So the F-250 in the rerun was

1 stronger and stiffer.

2 So you know, that would be to the Escape's
3 disadvantage. We hit it the a stronger truck
4 in the rerun -- I mean a stronger simulated
5 truck.

6 So that's -- that's -- I thought that would
7 be most consistent with my deposition and the
8 most consistent with my intent, especially
9 because we had done the calculations of crush
10 originally with the hand calculations or the
11 computer calculations with -- with Neptune's
12 data. Now we were going to use the pure
13 simulation data or as pure as we could get.

14 Q. And why didn't you follow that
15 same process with the original simulation?

16 A. Because I asked if we had crush
17 stiffness coefficients for the Crew Cab. And
18 the answer was no. And I didn't realize when
19 Vehiclemetrics provided a vehicle, they -- they
20 provided stiffness coefficients as well, the
21 numbers side.

22 So in the rerun when we were making sure to
23 do things per my deposition, we went through it

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1 rerun? There's nothing new about that. It's
2 just you didn't recognize that that was a
3 possibility when you did the original run?

4 A. Right. Right.

5 Q. Vehiclemetrics and the process you
6 followed was available back in October of 2023?

7 A. Yes. Yes. And we had it. We had
8 the vehicle. We had it in there. We just
9 didn't use the AV values that came with the
10 truck because I mistakenly didn't think they'd
11 come with some.

12 Q. All right. It appears another
13 change that was made is to the tire sizes on
14 the F-250. Explain the change you made between
15 the original run and the amended run with
16 regard to the tire sizes on the F-250.

17 A. Sure. We have the tire sizes
18 right in the file as a whole. But when we ran
19 the simulation, the tire size -- I don't see
20 the paragraph in there. Can you -- do you have
21 it?

22 Q. It's --

23 A. Oh, yeah. Yeah. So there was a

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1 point -- a 0.35 inches difference in the tire
2 size that -- 0.7 in the diameter and 0.35
3 inches in the -- in the radius. So we were off
4 by, you know, a third of an inch in height.
5 And I think that was corrected. In fact, I
6 know it was corrected.

7 Q. And that's not based on any new
8 information. Right? I mean, the tire size on
9 the subject F-250 was known at the time you ran
10 your original simulation?

11 A. Right. We -- we had done it -- we
12 used the right tire size throughout most of the
13 file, but just in inputting the data in the
14 simulation, it didn't -- we didn't catch that
15 we should change the size of the tire by
16 that -- you know, by that much.

17 Q. If you don't know what original
18 data was used for the original simulation
19 because you don't have it anymore, how do --
20 how do you know what was or wasn't used with
21 the original simulation?

22 A. Well, I don't remember where it
23 is. But Mr. Grimes is the one that located it

1 You used a different default coefficient
2 stiffness because you used the Vehiclemetrics
3 instead of Neptune. Right?

4 A. Yes.

5 Q. You changed the tire sizes to
6 mirror the subject F-250. For the Escape you
7 didn't make any changes compared to the
8 original run?

9 A. Correct.

10 Q. All right. And so the only real
11 modifications beyond those would be to the
12 weight of the vehicle. Right?

13 A. Seemingly.

14 Q. Right. And so here we have
15 appendix A, which I believe is your -- showing
16 how you determined the weight used in the
17 simulation for both vehicles?

18 A. Yes.

19 Q. Okay. Here is the F-250 first.
20 And the first weight I see here, weight 250
21 equals 8,040 pounds. I'm assuming that is the
22 weight of the crash vehicle that you weighed
23 after the crash?

1 A. Yes.

2 Q. Okay. And then you added weight
3 for the driver and certain items that were on
4 the F-250?

5 A. Yes.

6 Q. Okay. And that gave you a total
7 weight that's highlighted here that was used
8 for the total weight in the simulation?

9 A. Yes.

10 Q. Okay. Does HVE allow you to
11 account for the position of these additional
12 weights? In other words, does it -- do you put
13 in the location of the driver and add 170
14 pounds in the driver's seat or is it just a
15 total weight that's input into the software?

16 A. You can do it either way.

17 Q. Okay. So it does allow you to
18 actually position weight within the vehicle in
19 a specific location?

20 A. Well, generally the way we do it
21 is we would redistribute the weight ratios. So
22 I believe in the past we've actually put actual
23 weights in like occupants and things. But we

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1 normally just redistribute the weight ratios,
2 if we do it at all.

3 Q. Okay. In this case did you
4 redistribute the weight ratios?

5 A. No, we did not. We just added the
6 weights to the vehicle at the CG.

7 Q. All right. So there was no
8 factoring in the specific location of the items
9 in the truck; it was -- you didn't use that as
10 part of your rerun simulation?

11 A. Correct.

12 Q. Okay. Did you account for any
13 loss of fluids that the F-250 may have suffered
14 in the crash?

15 A. No.

16 Q. Okay. Do you know the level of
17 fuel in the gas tank of the F-250 at the time
18 it was measured?

19 A. Not specifically. Just what was
20 in there. It's part of the 8,040. We know the
21 weight of it. But you know, not an exact
22 amount.

23 Q. You don't know if the tank was

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1 full, empty? You don't know what fuel level
2 was in the tank at the time it was weighed?

3 A. Just what it was after the
4 accident. There's no evidence it leaked out.

5 Q. And the same with regard to
6 whatever fluid was in the radiator, that wasn't
7 accounted for?

8 A. Yeah, the radiator did leak some
9 out. We know that. But no, we did not think
10 that was --

11 Q. (Inaudible) fluids contained
12 within the vehicle?

13 A. Pardon?

14 Q. And you didn't account for any
15 other loss of fluids from the vehicle?

16 A. No. We knew some radiator fluid
17 had leaked out. We weren't worried about that.
18 The rest of the fluid should have been the same
19 at the time of the accident.

20 Q. All right. And the weight for the
21 chainsaw, did you actually measure the
22 chainsaw? Did you weigh it?

23 A. No. We didn't have the chainsaw.

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1 So you had to look something up. It's an Stihl
2 chainsaw, so you had to look something up for
3 the original.

4 Q. Same -- same question for the
5 tools. Is that based upon measuring the weight
6 of the tools, or is that just an estimation?

7 A. Nobody knows what was in the
8 toolbox. We needed a weight to put in. So we
9 thought 100 would be reasonable. We don't know
10 exactly what it is. Nobody has ever seen
11 inside the toolbox.

12 Q. And what about the storage box, is
13 that an estimation or is that -- you didn't
14 actually weigh the storage box, did you?

15 A. No. It was missing. So I think
16 we did some internet research to come up with a
17 reasonable weight, just like Mr. Grimes did.

18 Q. All right. The bottom of the page
19 is the weight you used for the Ford Escape. In
20 your simulation, again I'm assuming that your
21 weight 3,410 is the measured weight of the
22 vehicle after the crash?

23 A. Yes, it is.

1 Q. All right. And with the Escape,
2 did you add any weight for the cargo that was
3 behind the second row seat?

4 A. Well, it was already in the
5 vehicle when we weighed it, so --

6 Q. All right. That --

7 A. -- yes, it's in the weight.

8 Q. That's my question. So there
9 was -- the cargo was still in the back of the
10 Ford Escape at the time you weighed it?

11 A. Yes.

12 Q. Okay. Do you know the level of
13 the fuel tank in the Escape at the time you
14 weighed it?

15 A. Well, nothing leaked out at the
16 scene. So it was whatever it was at the time
17 of the accident. That's all we were concerned
18 about.

19 MS. CANNELLA: Mr. Hill, I'm
20 trying to give you some leeway here, but this
21 is not new information. And this is a
22 deposition on his supplemental report. So
23 we're not -- we're going to object to a bunch

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1 of questions about work that -- that could have
2 been discussed at his first deposition.

3 MR. HILL: That's fine. You can
4 lodge that -- lodge that objection. But this
5 was produced as part of his amended report.

6 MS. CANNELLA: I understand that.
7 But my -- my statement stands.

8 MR. HILL: All right. Well, I
9 disagree with your objection.

10 Q. (Mr. Hill) The Escape in the
11 accident suffered quite a bit of broken glass.
12 You would agree with that?

13 A. Yes.

14 Q. All right. Did you account for
15 the weight of the glass that was missing when
16 you weighed the crashed Escape?

17 A. Whatever glass -- normally it's
18 all shoveled up and thrown in the vehicle or it
19 falls in the vehicle. Whatever glass was in
20 there, it got accounted for. Whatever glass
21 wasn't in there didn't get accounted for.

22 Q. Okay. And do you know whether the
23 glass was actually -- the shards of glass was

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1 put in the vehicle at the time you weighed it?

2 A. Well, some of it was. But I
3 don't -- I didn't account -- try and account
4 for each shard of glass. No, sir. It's -- the
5 weight of the vehicle is a reasonable
6 approximation in the condition it's shown in at
7 the time of our photographs. And we think
8 that's reasonable for the accident, plus the
9 occupants the car seats.

10 Q. And the same question with regard
11 to the placement of the weight. Just to be
12 clear, similar to the F-250 you didn't account
13 for the location of the occupants in the
14 vehicle when you ran the simulation?

15 A. Well, they're near the CG. But
16 no, we didn't. We just added their weight to
17 the total vehicle, yes.

18 Q. Okay. All right. Now we can --
19 let's just confirm a few things that were not
20 changed between the original simulation and the
21 amended simulation.

22 Just to be clear, the offset that you used
23 in both simulations was twelve inches. Is that

1 correct?

2 A. Yes.

3 Q. All right. And the speed --

4 A. Time out. Pardon me. Pardon me.

5 Q. Sure.

6 A. You've actually made a really good
7 point. And you did it a little while ago.

8 I -- we know the offset is eleven inches
9 from -- or approximately a foot. That's what I
10 said in my first depo. But it's eleven from
11 the Ford emblem marks on the tailgate.

12 So in the original simulation, I don't
13 know -- I believe it was -- I don't know if it
14 was eleven inches or one foot. But in my depo
15 I was asked what the offset was. I said, well,
16 I haven't exactly measured it. And I made a
17 measurement on a drawing, and it said one foot.
18 So I'm going to use one foot because that's
19 consistent with my deposition. But the
20 precise -- you made a good point earlier. I
21 don't know the precise offset that was used
22 other than from my memory it could have been
23 eleven inches or a foot.

1 But it was -- it was -- it was done from the
2 scan data we had and everything. And so it's
3 approximately a foot. And that's what we used.
4 I don't know why I thought I needed to clarify
5 all of that. But thank you for listening.

6 Q. Sure. But regardless, the offset
7 you used in the rerun was twelve inches to the
8 left of the Escape?

9 A. Thank you. Yes.

10 Q. Right. And -- and there's no
11 dispute that that's the offset that you believe
12 occurred, in fact?

13 A. Well, I actually think it's eleven
14 from the -- in the depo I did an approximate
15 using a -- a manual scale. But we know where
16 the -- we know it's precisely eleven if we go
17 to the best data we have.

18 Q. All right. So why did you use
19 twelve if you now have determined that it was
20 eleven?

21 A. Because I -- earlier we were using
22 the orientation from the scans, which was
23 eleven. But in the depo I said one foot, so we

1 stated that the extremes using the potential
2 braking at 0.5 seconds would be 43.9 at the
3 lowest end if you have assumed full braking
4 power at exactly 0.5 seconds. And then he had
5 a high-end range that would assume that you
6 didn't have full braking and you had braking
7 just minimal right before the impact, and it
8 just provided him a preliminary range depending
9 upon various hypothetical braking situations.
10 Is that a fair description of his testimony as
11 you understand it?

12 A. That's a good start for a
13 conversation. Yes, sir.

14 Q. Right. But we know -- and you
15 agree that -- and he even said he didn't
16 believe that braking occurred. And that he
17 believed that that accident occurred at 50 or
18 51 miles an hour, which is consistent with your
19 belief as to what the speed of the F-250 was at
20 the time of the impact. Is that correct?

21 A. I think so. There's a lot in it.
22 Can you make sure I've got it all?

23 Q. Sure. Well, we don't have a

1 dispute here. You used 51 miles per hour as
2 the impact speed in every one of your
3 simulations.

4 A. Uh-huh.

5 Q. Correct?

6 A. Yes.

7 Q. All right. And so you don't have
8 any criticism of his using 49.9 in the crash
9 test?

10 A. I actually -- based on his work,
11 yes. I'm looking -- I'm using 51 and getting
12 more crush. If -- if the -- if the vehicle was
13 really going 44, then I'm -- I'm using a worst
14 case scenario in my simulation. But if his
15 opinion is that the lifted truck -- that an
16 unlifted truck produces the same amount of
17 crush as a lifted truck -- or even more is
18 actually what his opinion is -- then he needs
19 to make sure he's got the speeds right.

20 See, because what if the -- what if
21 according to him the accident was 44 miles an
22 hour. And is it fair to really compare it to a
23 crash test that he ran at 49.9 miles an hour?

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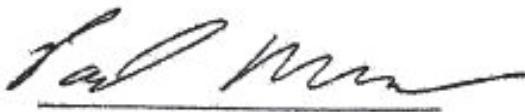
1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA,

3 BALDWIN COUNTY,

4 I, Paul Morse, Certified Court Reporter
5 and Commissioner for the State of Alabama at
6 Large, do hereby certify that the above and
7 foregoing proceedings was taken down by me by
8 stenographic means, and that the content herein
9 was produced in transcript form by computer aid
10 under my supervision, and that the foregoing
11 represents, to the best of my ability, a true
12 and correct transcript of the proceedings
13 occurring on said date and at said time.

14 I further certify that I am neither of
15 kin nor of counsel to the parties to the action
16 nor in any manner interested in the result of
17 said case.

18
19
20
21 

22 Paul Morse, CCR

23 ACCR #588 Expires 9/30/24